RECENT CASES

CARRIERS—EXEMPTION FROM LIABILITY—VALUATION.—J. M. PACE MULE CO. v. SEABOARD AIRLINE CO. 76 S. E. (N. C.), 513.—A firm shipped a car load of mules under a bill of lading containing the following provision: "Should damage occur for which the said carrier may be liable, the value at the date and place of shipment shall govern the settlement in which the amount claimed shall not exceed * * * for a horse or a mule $100 * * * which amounts it is agreed are as much as such animals as are herein agreed to be transported are worth." *Held,* that where loss occurred through carrier's negligence, the shipper could recover the full value.

It is well settled that a carrier may by contract limit his liability, except for injury resulting from negligence. *Ormsby v. Union Pac. R. R. Co.,* 4 Fed., 706. In New York, a line of cases out of harmony with the weight of authority allows the carrier to exempt itself from losses due to negligence of its servants, but contracts of this kind are very strictly construed. *Wilson v. N. Y. C. & H. R. R. R. Co.,* 87 N. Y., 87; *Magnin v. Dinsmore,* 56 N. Y., 168. The rule in the Federal Courts is that where the value of the goods has been agreed upon, no greater amount can be recovered where loss is due to negligence. *Hart v. R. R. Co.,* 112 U. S., 331. But here such a clause must be for the purpose of fixing the value and not primarily an attempt to limit the carrier's liability. *Eels v. St. L. etc., R. R. Co.,* 52 Fed., 903. Where the contract is fairly entered into and a valuation agreed upon, the agreed value is all that can be recovered even though the loss is due to gross negligence. *Donlon Bros. v. So. Pac. R. R. Co.,* 151 Cal., 763. The doctrine of the Hart case, *supra,* was followed in Minnesota. *Alair v. No. Pac. R. R. Co.,* 53 Minn., 160. Such a clause is valid where the loss results only from slight or ordinary negligence. *Pac. Ex. Co. v. Foley,* 46 Kas., 457; *Zouch v. Ches. & Ohio Ry. Co.,* 36 W. Va., 524. Where the value of the article is undisclosed, a clause in a bill of lading stipulating the maximum for which the carrier will be liable, if accepted by the shipper, is binding in case of loss due to negligence. *Ballou v. Earle,* 17 R. I., 441; *Graves v. Lake Shore, etc., Co.,* 137 Mass., 33; *MacFarlane v. Adams Ex. Co.,* 137 Fed., 982. In many American jurisdictions a valuation clause in a bill of lading is inoperative when relied upon to exempt from negligence, or to diminish the recovery of damages caused by such negligence. *Adams Ex. Co. v. Holmes,* 9 Atl. (Pa.), 166; *R. R. Co. v. Wynn,* 88 Tenn., 320; *Express Co. v. Backman,* 28 Ohio St., 144. In Kentucky, Iowa, Nebraska and Texas, the State Constitutions forbid common carriers to limit or restrict their liability as it exists at common law. The Hart case, *supra,* is frequently cited as authority for the proposition that a carrier may limit its liability for negligence, but it is inaccurate to so cite it. The pertinent provision in the bill of lading in that case is apparently an attempt to limit liability but it is very evident that the Court considers it an agreed valuation. For remarks so construing the case, see *Duntley v. B. & M. R. R. Co.,* 66 N. H., 283; *Eels v. St. L.*

Ry. Co., 52 Fed., 904. Though the bill of lading in the principal case purports to contain an agreed valuation, yet, if, as the Court construes it, it is an attempt to limit liability, the case is correctly decided. When all the circumstances surrounding the formation of the contract have been fully shown, the question whether there was an agreed valuation or an attempt to limit liability may properly and fairly be left to the jury.

DEDICATION—PLATS—PARKS—SALES OF LOTS—REVOCATION.—TOWN OF VINTON V. LYONS ET AL., 60 So. (LA.), 54.—*Held*, that the recording of a plat with a vacant block marked "park" and the sale of lots according to the plat, is an irrevocable dedication of the park to public use.

The word "park" written on the recorded plat and lots being sold in accordance with the plat constitutes dedication of such ground to park purposes. *Florida East Coast Ry. Co. v. Worley*, 49 Fla., 297. Dedication will be consummated when lots are sold at auction after the announcement that a certain part will be set aside as a public park. *Borough of Belwar v. Barnett*, 72 Atl. (N. J.), 77. The principle is that the grantor is estopped to deny the existence of the easement. *Clark v. Elizabeth*, 40 N. J. L., 172. The title created in the municipality is that of an easement. In a few cases where the municipality has not as yet been created it is held that the title is that of a fee simple which is in abeyance during the interim between the time of the sale of the lots and the creation of the municipality. *Stephenson v. Lewis*, 244 Ill., 147. But no amount of laying out and planning will effect a dedication unless lots are sold on the strength of it. *Kruger v. Constable*, 116 Fed., 722. The decision in the title case is entirely sound.

ELECTIONS—ELECTORAL RESIDENCE—RIGHT OF STUDENTS TO VOTE.—HOLMES ET AL. V. PINO ET AL., WHITAKER ET AL. V. SAME, 60 So. (LA.), 78. —*Held*, that the provision of Article 208 of the Constitution of 1898 that, "for the purpose of voting, no person shall be deemed to have gained a residence, by reason of his presence, or lost it by reason of his absence, while a student at any institution of learning," does not disqualify a student of full age from acquiring an electoral residence in the parish where such an institution is located. Each case must be determined by its own particular facts.

The weight of authority shows that there is no special rule for determining the residence of students for election purposes. The same rules that determine the domicile of other persons apply to them. *Wickham v. Coyner*, 30 Ohio Cir. Ct. R., 765. The right to vote is dependent upon an actual and not an imaginary residence, and it is not a matter of choice. *People v. Ellenbogen*, 114 N. Y. App., 182. The rule laid down in *Welch v. Shumway*, 232 Ill., 54, that a student supporting himself entirely by his own efforts, not subject to parental control, and who regards the place